

# Resisted Access? National Security, the *Access to Information Act*, and Queer(ing) Archives



PATRIZIA GENTILE\*

**RÉSUMÉ** Les purges de sécurité anti-homosexuelles organisées par le *Security Panel* et imposées par la GRC, constituent un triste chapitre dans l'histoire canadienne de la Guerre froide. Ce texte raconte certaines expériences de l'auteure alors qu'elle a traversé un « labyrinthe » de documents classifiés, de documents d'archives et de documents historiques conservés dans des ministères pendant qu'elle faisait de la recherche pour le livre *The Canadian War on Queers: National Security as Sexual Regulation*, qu'elle a écrit avec Gary Kinsman. L'auteure soutient que l'État de sécurité nationale peut se servir de la *Loi sur l'accès à l'information (AI)* pour créer des défis et des obstacles pour les historiens des minorités sexuelles qui sont à la recherche de contenu gai et lesbien dans les archives. Le texte avance aussi l'hypothèse que dans le contexte de la « Guerre contre la terreur », la *Loi antiterroriste* renforcera l'impact négatif de l'AI, ce qui aura des répercussions nuisibles pour la rédaction de l'histoire gaie et lesbienne.

**ABSTRACT** The anti-homosexual security purges organized by the Security Panel and enforced by the RCMP, represent a sad chapter in Canadian Cold War history. This essay offers some of the author's experiences as she negotiated the "maze" of classified documents, archives, and historical records held at government departments while researching her book *The Canadian War on Queers: National Security as Sexual Regulation*, co-authored with Gary Kinsman. The author contends that the national security state can deploy the *Access to Information Act (ATI)* to create challenges and obstacles for queer historians in their effort to find queers in – or to queer – the archives. The essay also speculates that in the context of the "war on terror," the *Anti-Terrorism Act (ATA)* will reinforce the negative impact of *ATI* and thus have detrimental implications for the writing of queer history.

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## Introduction

The Winter 1991–1992 issue of *Archivaria* featured an article by Steven Maynard on lesbian and gay history and archival research.<sup>1</sup> This groundbreaking assessment of writing queer history, searching for queers in the archives, and queering the archives encouraged readers to interrogate the role of the archives as actively involved in the regulation of lesbians and gays. In the conclusion to this important essay, Maynard identified the pressing need to trouble the profound impact of archival practices on lesbian and gay history:

[A]rchival practice has sometimes used restrictions and the designation “restricted access” in arbitrary, often discriminatory ways, serving to impede or obstruct research into the lesbian and gay past ... Those of us, for example, using court or other government records need to be critical of documents generated by a system designed to regulate the very lives we are trying to uncover. As well, lesbian and gay researchers need to remain skeptical of archives in the same way as we are of many public institutions. One need not adopt a theory of archivists or archives as conspiratorial to recognize, nevertheless, that archives stand in a regulatory relation to lesbian and gay researchers, as the gatekeepers, if you will, of the documents of our past.<sup>2</sup>

Maynard’s call for critical analysis of the state’s power to control information about queer lives remains no less relevant eighteen years later. While the skepticism that many queer historians and historians of sexuality harbour toward archives has not dissipated since the publication of Maynard’s article, the sheer volume of research on queer history and the history of sexuality has precipitated significant changes for archives and archivists in the intervening years. Whether or not government archivists in North America welcome these changes, queer scholars can now speak with legitimacy about the “queering” of government archives.

In a footnote, Maynard called for research on the impact of the federal *Access to Information Act (ATI)* (hereinafter the Act) on lesbian and gay archival research, posing this question: “Is it now more difficult to get access

1 Steven Maynard, “‘The Burning, Wilful Evidence’: Lesbian/Hay History and Archival Research,” *Archivaria* 33 (Winter 1991–92), pp. 195–201. For more on Maynard’s work on writing the history of sexuality in Canada using government documents (both federal and provincial) see his “Sex, Court Records, and Labour History,” *Labour / Le Travail* 33 (Spring 94), pp. 187–93 and his “On the Case of the Case: The Emergence of the Homosexual as a Case History in Early-Twentieth-Century Ontario,” in *On the Case: Explorations in Social History*, eds. Franca Iacovetta and Wendy Mitchinson (Toronto, 1998). Karen Dubinsky’s work on sexual assault and consent laws in Canada is another important contribution to case studies of sexuality in Canada. See *Improper Advances: Rape and Heterosexual Conflict in Ontario, 1880–1929* (Chicago, 1993).

2 Maynard, “‘The Burning, Wilful Evidence,’” p. 200.

to lesbian/gay-related materials since the passing of the Act?”<sup>3</sup> This paper responds to Maynard’s query by assessing how access to information legislation presented both opportunities and constraints in research conducted in the mid to late 1990s on the anti-homosexual security purges in Canada. The article offers personal reflections on the experience of searching for queers in the records held at Library and Archives Canada and at government departments for the monograph *The Canadian War on Queers: National Security as Sexual Regulation* co-authored with Gary Kinsman, and the impact that experience had on both a personal and professional level. The objective of this essay is to stimulate much-needed discussion on how the national security state deploys the Act to continue the regulation of queer lives within the archives. My usage of the term “national security state” refers to the way the state is implicated in the political, legislative, economic, and cultural regulation of social relations in the interests of national security. The oral narratives collected for *The Canadian War on Queers* foreground the various strategies employed by queers as they resisted state agencies and the national security regime in Cold War Canada.<sup>4</sup>

Rarely is the federal *Access to Information Act* (enacted in 1983) conceptualized as a tool of the national security state. Viewed instead as a hallmark of a liberal democratic society, the Act allows citizens to access more information than ever before even as the exceptions and exclusions contained in the Act protect information deemed sensitive by government institutions.<sup>5</sup> For example, in the mid 1990s, CBC radio journalist Michael McAuliffe relied on the Act to access documents necessary to expose the Somalia affair. Because of the Act, one citizen’s inquiry uncovered the horrific behaviour of Canadian soldiers toward Somali prisoners, and initiated an intense national

3 Ibid., p. 201, note 16.

4 For more on the national security state as well as the impact of reification (especially in terms of memory and the social relations of forgetting), see Gary Kinsman and Patrizia Gentile, *The Canadian War on Queers: National Security as Sexual Regulation* (Vancouver, 2010).

5 *Access to Information Act* R.S., 1985, c. A-1 (hereinafter the Act). The mandate of the *ATI* extends “the present laws of Canada to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government.” In a report prepared for the Library of Parliament, Kristen Douglas, Law and Government Division, characterized the legislation “as a critical element of the transparency and openness in government that is necessary to the proper functioning of Canada’s parliamentary democracy.” See *The Access to Information Act and Recent Proposals for Reform* (Ottawa, 2006), p. 1. See Wesley Wark’s discussion on the role of the Act in a democratic society in his *The Access to Information Act: Ten Years On* (Ottawa, 1994).

debate over the role of torture and the military.<sup>6</sup> Another example – and one that figures prominently in the discussion that follows – is the access request made by Halifax journalist Dean Beeby in 1992.<sup>7</sup> Beeby's request for the declassification of documents concerning the vetting of homosexuals in the Canadian federal public service inspired the research for *The Canadian War on Queers*.<sup>8</sup>

In the case of both the McAuliffe and Beeby requests, the Act “worked.” Both examples demonstrate how access to information legislation is critical to the democratic process. Indeed, countless journalists and scholars, including many historians, have had important successes with Canada's *Access to Information Act*.<sup>9</sup> In fact, this legislation and the government policies that support it effectively redefined the Canadian government archives as more than just a depository of historical documents. Access to information legislation transformed the archives into a potentially controversial site with the capacity to create significant political embarrassment for the state. The Act's adoption signaled to many Canadians a commitment to maintaining and protecting civil liberties and human rights. Most importantly, it fostered the

- 6 For more on this incident see Sharene Razack, *Dark Threats and White Nights: The Somalia Affair, Peacekeeping and the New Imperialism* (Toronto, 2004).
- 7 Dean Beeby, “Mounties Staged Massive Hunt for Gay Males in Civil Service: Police Kept Files on 8,200 during Diefenbaker-Pearson Era,” *Globe and Mail*, metro ed. (24 April 1992), pp. A1–A2; Dean Beeby, “RCMP Was Ordered to Identify Gays: Only Carrying Out Cabinet Policy, Former Head of Mountie Security Says,” *Globe and Mail*, metro ed. (25 April 1992), p. A5.
- 8 Similar homosexual purges occurred in the United States. See David Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago, 2004). For an archivist's perspective, see Louise S. Robbins, “A Closet Curtained by Circumspection: Doing Research on the McCarthy Era Purge of Gays from the Library of Congress,” in *Daring to Find our Names: The Search for Lesbian and Gay Library History*, ed. James Carmichael (Westport, 1998), pp. 55–64.
- 9 See Gregory S. Kealey, “The Royal Canadian Mounted Police, the Canadian Security Intelligence Service, the Public Archives of Canada, and Access to Information: A Curious Tale,” *Labour / Le Travail* 21 (Spring 1988), pp. 199–226. One of the most important contributions made to the history of security and the Canadian left is the publication of RCMP Bulletins written from the 1920s to the 1940s and compiled by Greg Kealey and Reg Whitaker in their series, *RCMP Security Bulletins* (St. John's, 1993); Reg Whitaker and Gary Marcuse's, *Cold War Canada: The Making of a National Insecurity State, 1945–1957* (Toronto, 1994), is the most extensive history of the Canadian national security state during the Cold War; Larry Hannant, *The Infernal Machine: Investigating the Loyalty of Canada's Citizens* (Toronto, 1995); Steve Hewett, *Spying 101: The RCMP's Secret Activities at Canadian Universities, 1917–1997* (Toronto, 2002); Paul Jackson, *One of the Boys: Homosexuality in the Military during World War II* (Montreal and Kingston, 2004); Elise Chenier, *Strangers in our Midst: Sexual Deviancy in Postwar Ontario* (Toronto, 2008); Daniel Robinson and David Kimmel, “The Queer Career of Homosexual Security Vetting in Cold War Canada,” *Canadian Historical Review*, vol. 75, no. 3 (September 1994), pp. 319–45; and Gary Kinsman, *The Regulation of Desire: Homo and Hetero Sexualities*, 2nd ed. rev. (Montreal, 1996).

impression that the government was transparent and “open.” However, the Act can also be used as an important institutional and ideological mechanism through which the state enacts various forms of surveillance in support of the national security state. The Act functions as a critical technology of power that facilitates the possibility of rupture, exposure, and critique of the state while simultaneously entrenching the power of the state to regulate, limit, and protect information it creates.

Emerging theoretical work on archives that challenges the strictly material understanding of an archives as a physical space, influenced my experience of using the *ATI* legislation as a research tool. The work of cultural theorist Ann Cvetkovitch, for example, posits that an “archives” can be conceptualized in many forms and permutations, including an *archives of feeling*. Cvetkovitch points to memories based in love, guilt, shame, or trauma as monuments to the unrecorded pasts of subaltern peoples and the formation of public cultures.<sup>10</sup> *The Canadian War on Queers* mined an archives of queer memories through the numerous interviews we conducted with people directly affected by the anti-queer purges. These interviews and the memories they explore can be categorized as an “archives” because they are a testament to a history that the Canadian state sought to silence. In keeping, therefore, with this broader conceptualization of the queer archive, *The Canadian War on Queers* is itself an archives that seeks to combat the social organization of memory and forgetting.<sup>11</sup>

The stories and memories that people shared are the axis on which our analysis turns. Using institutional ethnography<sup>12</sup> as a methodological approach, allowed us to expose how institutional relations work to create problems in people’s everyday lives. A central feature of institutional ethnography

10 Ann Cvetkovitch, *An Archives of Feelings: Trauma, Sexuality, and Lesbian Public Cultures* (Durham, 2003).

11 This alternative conceptualization notwithstanding, queers have had to build their own physical archives and archival networks to ensure the preservation of their histories, including the Canadian Lesbian and Gay Archives (CLGA) in Toronto and the Lesbian Herstory Archives in New York. In the course of writing *The Canadian War on Queers*, we came to appreciate the extent to which the CLGA is actively involved in the shaping of queer history, not by simply acting as a depository of queer documents, letters, diaries, or pamphlets, but by literally becoming itself an agent or actor of queer history. The very existence of the CLGA is a testament to the strategies queer activists have found necessary to ensure a *place* in Canadian history. For more on the Lesbian Herstory Archives, see Polly J. Thistlethwaite, “Building ‘A Home of Our Own’: The Construction of the Lesbian Herstory Archives,” in *Daring to Find Our Names*, pp. 153–74.

12 The term “institutional ethnology” was coined and developed by Dorothy Smith and is one of the theoretical and methodological frames we use in our analysis of the anti-homosexual purges in Canada. See Dorothy Smith, *Institutional Ethnography: A Sociology of People* (Lanham, NY, 2005) and her *The Everyday World As Problematic: A Feminist Sociology* (Toronto, 1987).

is the mapping of social relations from the standpoints of those experiencing problems within these institutional relations; instead of prioritizing the official texts produced by the national security state, we used the memories and stories from the people directly affected by national security ideology and surveillance practices, to “map” the social organization of the national security state. *The Canadian War on Queers*, therefore, is unique not only in its contribution to the historiography of the Canadian Cold War, but by foregrounding the memories, traumas, and acts of resistance, it unveils a queer archives. The discussion that follows illustrates how exposing the social organization of memory and forgetting is part of this unveiling process. The access restrictions placed on our requests for government records necessitated that we conduct interviews of people directly affected by the anti-homosexual purges. Consequently, the official texts are mediated through the memories collected.

The sections of the Act most often cited by the Access to Information and Privacy (ATIP) Division of Library and Archives Canada (LAC) and the departmental ATIP units<sup>13</sup> in response to requests for records were subsections 13(1)(a), 13(1)(b), 15(1), and sections 21 and 69, the latter being an exclusion pertaining to Cabinet confidences. The wording of these particular sections is vague and broad so that almost any document that contains some reference to security issues and/or surveillance can be withheld or blacked out as a threat to national security.<sup>14</sup> An analysis of these subsections illuminates how the Act, LAC, and ATIP officers themselves played a critical role in the researching and writing of *The Canadian War on Queers*, a book committed to demonstrating how queers were socially organized as dangerous, subversive, disloyal, and exhibiting “character weaknesses.”

### Researching Queer History from (or Despite) the “Exemptions” Zone

The division of the world by the Cold War into “West” and “East,” which in turn translated into particular military and political alliances such as NATO or the Warsaw Pact, meant that the core of national security ideology hinged on sharing secrets and intelligence among allied states. Maintaining the national security state relied heavily on the ability of each Western allied

13 Access to Information and Privacy (ATIP) refers to the *Access to Information Act* and the *Privacy Act*, which are usually considered together when requests are made to access government records. All federal departments and agencies including Library and Archives Canada employ ATIP officers to review requests for access to records. At LAC, professionals trained to apply the Act not the archivist responsible for the records, make decisions about access to archival records.

14 Notwithstanding my argument about the vagueness of language in the Act and the impact this had on researching the anti-homosexual purges in Canada, some of the exemptions are meant to protect personal information or information between clients and their lawyers, and I acknowledge that in some cases these exemptions are necessary.

nation to prove that it was capable of surveillance and security work comparable, if not superior, to the United States. Indeed, immediately following the Second World War, the Igor Gouzenko affair seriously compromised Canada's credibility as "reliable" in the eyes of Western allies.<sup>15</sup> The Canadian government had very little choice following this event: either it created the conditions that would assure the American and British intelligence services that it was capable of safekeeping international secrets, or risk marginalization or even exclusion from the major political and military alliances. Subsection 13(1) of the Act was designed to protect this spirit of "international co-operation" and the ideology of national security.

13(1) Subject to subsection (2), the head of a government institution shall refuse to disclose any record requested under this Act that contains information that was obtained in confidence from

- (a) the government of a foreign state or an institution thereof;
- (b) an international organization of state or an institution thereof;
- (c) the government of a province or an institution thereof;
- (d) a municipal or regional government established by or pursuant to an Act of the legislature of a province or an institution of such a government; or
- (e) an aboriginal government.<sup>16</sup>

As one of the sections quoted by ATIP officers when restricting our access to documents – especially subsections 13(1)(a) and 13(1)(b) – this exemption marked queers as both national and international threats. Queers were (and continue to be) discursively constructed as potentially dangerous to national security because historically they have been painted as Communist sympathizers and social threats to heterosexual hegemony.<sup>17</sup>

Subsection 13(1) poses a series of important research and archival difficulties for queer historians and historians of sexuality specifically because it seeks to protect information acquired through international relationships. By defining queers as national and global security threats, the national security state effectively circumvents queer scholars from studying and researching new areas of historical and cultural interest such as queer migration and diasporas. Additionally, the national and international security trope established

15 For more on the defection of Igor Gouzenko see Whitaker and Marcuse, *Cold War Canada*.

16 *Access to Information Act* (R.S., 1985, c. A-1). Items (c), (d), and (e) of subsection 13(1) were never cited as areas of restriction to our requests, but I include them here in the spirit of completeness. It should also be noted that exemptions could be divided in two categories: mandatory or discretionary. For a thorough discussion of these differences consult Daniel German, "Access and Privacy Legislation and the National Archives, 1983–1993: A Decade," *Archivaria* 39 (Spring 1995), pp. 196–213. Section 13 is a mandatory exemption and corresponds with section 19 of the *Privacy Act*.

17 For more on the historical construction of queers as Communist sympathizers see Kinsman, *The Regulation of Desire*.

by subsection 13(1) means that the federal government can continue to regulate access to documents that could prove that security policies in Canada were directly shaped and influenced by the security concerns of other nations. Finally, the wording of subsection 13(1) enables the national security state, and the international network in which it participates, to use security and surveillance practices to regulate the lives of queers by restricting access without scrutiny from democratic processes.

Subsection 15(1) was the section most frequently cited in the documents we acquired. Unlike subsection 13(1), which imposes restrictions based on the *content* of the documents requested and on how that content was *obtained*, subsection 15(1) is concerned primarily with the *protection* of Canada's national security and that of its allies.

15 (1) The head of a government institution may refuse to disclose any record requested under this Act that contains information the disclosure of which could reasonably be expected to be injurious to the conduct of international affairs, the defence of Canada or any state allied or associated with Canada or the detection, prevention or suppression of subversive or hostile activities.<sup>18</sup>

Without a doubt, subsection 15(1) contains the most ambiguous language among the exemptions and exclusions under scrutiny in this essay. It allows the Canadian national security state to use the Act to deny access in the name of international and national security, the definitions of which are never revealed. In effect, the national security state sets the parameters of what is understood as “subversive or hostile activities” but keeps these parameters secret since publicizing them would be “injurious” to both international and national security. Subsection 15(1) also ensures the suppression of documents that may reveal the security methods, operations, infrastructure, strategies, and practices established by the state to “detect, prevent, and suppress” what it deems “subversive and hostile.” The names of organizations and associations listed in the LAC finding aid for Record Group (RG) 146, Canadian Security and Intelligence Service files (formerly RCMP Security Services files) – unions, left organizations, women's groups, gay and lesbian groups, the Front de libération du Québec (FLQ), student groups, indigenous organizations, immigrant and Black associations – provide a clear idea as to which segments of the population are considered subversive in the eyes of the state.<sup>19</sup>

18 *Access to Information Act* (R.S., 1985, c. A-1). Section 15 is a discretionary exemption and corresponds to section 21 of the *Privacy Act*.

19 For more on the challenges of gaining access to classified documents and an explanation of RG 146, consult Kerry Badgley, “Researchers and Canada's Public Archives: Gaining Access to the Security Collections,” in *Whose National Security? Canadian State Surveillance and the Creation of Enemies*, eds. Gary Kinsman, Dieter Buse, and Mercedes Steedman (Toronto, 2000), pp. 223–228.

In the context of heightened security concerns, subsection 15(1) functions to uphold the historical and discursive constructions of queers as dangerous and threatening to national security simply by restricting access to documents that reveal security practices taken against them. As a result, the Act becomes a critical actor in the (un)queering of archives, especially in relation to classified documents.

Sections 21 and 69 were cited less frequently, but analysis of these sections is also pertinent since they deal with access to the internal documents created by government departments and agencies, and the Cabinet.<sup>20</sup> Section 21 restricts documents twenty years old or less produced by elected and non-elected officials working for the Government of Canada, including proposed legislation. Section 69, in particular, has come under scrutiny and debate by scholars and policy analysts. As an exclusion under the Act, “neither the Information Commissioner nor the Federal Court of Canada may examine the withheld record to determine whether or not it is, in fact, a Cabinet confi-

20 *Access to Information Act* (R.S., 1985, c. A-1).

- 21(1) The head of a government institution may refuse to disclose any record requested under this Act that contains
- (a) advice or recommendations developed by or for a government institution or a Minister of the Crown,
  - (b) an account of consultations or deliberations in which directors, officers or employees of a government institution, a minister of the Crown or the staff of a minister participate,
  - (c) positions or plans developed for the purpose of negotiations carried on or to be carried on by or on behalf of the Government of Canada and considerations relating thereto, or
  - (d) plans relating to the management of personnel or the administration of a government institution that have not yet been put into operation, if the record came into existence less than twenty years prior to the request.
- 69(1) This Act does not apply to confidences of the Queen’s Privy Council for Canada, including, without restricting the generality of the foregoing,
- (a) memoranda the purpose of which is to present proposals or recommendations to Council;
  - (b) discussion papers the purpose of which is to present background explanations, analyses of problems or policy options to Council for consideration by Council in making decisions;
  - (c) agenda of Council or records recording deliberations or decisions of Council;
  - (d) records used for or reflecting communications or discussions between ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;
  - (e) records the purpose of which is to brief ministers of the Crown in relation to matters that are before, or are proposed to be brought before, Council or that are the subject of communications or discussions referred to in paragraph (d);
  - (f) draft legislation; and
  - (g) records that contain information about the contents of any record within a class of records referred to in paragraphs (a) to (f).

dence.”<sup>21</sup> In other words, Canadian citizens have no avenue of appeal. There is no venue to challenge potentially arbitrary or discriminatory interpretations of subsection 69, to invoke Steven Maynard’s words.

The implications of sections 21 and 69 are important with respect to the making and queering of federal archives. It is my contention that we were denied access to documents pertaining to policies established to vet homosexuals, and to documents that would uncover the ruling relations and social practices having direct and real consequences for queer civil servants and members of the military. Sections 21 and 69 run contrary to the idea that government should be open and transparent. Ultimately, these sections function not only to keep queers hidden from Canadian history but also to render it difficult to determine whether they exist in the archives at all.

The obstacles posed by the Act have not gone unnoticed by those charged with dealing with complaints. In 2005, Information Commissioner John Reid called for a bill that would rename the *ATI* the “Open Government Act” to “expand the number of institutions to be covered by the Act, reduce the scope of secrecy permitted by the Act, expand the powers of oversight by the Commissioner and the courts, and increase incentives for compliance and penalties for non-compliance.”<sup>22</sup> These are admirable goals, especially the call to “reduce the scope of secrecy permitted by the Act” and certainly desirable for those interested in queering archives.

### **On the State and Re(searching) Queers: *The Canadian War on Queers***

My experience with researching and writing about queers in government began when Gary Kinsman hired me as part of his funded research project on the vetting of homosexuals in the Canadian public service. Working in Ottawa between 1994 and 1998 with fellow research assistant Heidi McDonell, I started the long and complex task of trying to convince ATIP officers to declassify the many documents we believed contained information relevant to the anti-homosexual purges.<sup>23</sup>

21 Douglas, *The Access to Information Act*, p. 3.

22 *Ibid.*, p. 15. For more on the proposed bill, see Information Commissioner of Canada, *Proposed Changes to the Access to Information Act* (Ottawa, September 2005). According to Douglas, Judge Gomery endorsed this bill in his report on restoring accountability. There are several articles written by archivists and published in *Archivaria* that have engaged in a debate concerning the impact of access to information and privacy legislation. The two that are particularly relevant are Jay Gilbert, “Access Denied: The *Access to Information Act* and Its Effect on Public Records,” *Archivaria* 49 (Spring 2000), pp. 84–123, and Kerry Badgley, Margaret J. Dixon, and Paulette Dozois, “In Search of the Chill: Access to Information and Record-Keeping in the Government of Canada,” *Archivaria* 55 (Spring 2003), pp. 1–19.

23 I reflect on my own experiences researching the anti-homosexual purges, and draw on an earlier article by Heidi McDonell in which she offers her own recollection of the research

Dean Beeby's 1992 *Globe and Mail* articles on the purges acted as a launching pad for our research. Beeby's own access to information request for documents relating to homosexuals in the federal public service was prompted by requests he submitted for research on the book *Moscow Dispatches*.<sup>24</sup> According to Beeby:

This book was based on Access to Information requests for all of his [John Watkins'] dispatches and lo and behold in the middle of this six metre stack of dispatches was the entrapment of him by the KGB. You know, homosexual entrapment. So, that's what really got me interested in the topic. Here was an innocent really being entrapped by the KGB.<sup>25</sup>

Beeby describes his "discovery" of these files and how he went about finding more documents.

So anyway, I was sort of interested in this homosexual intelligence "interplay," let's call it. And this was obviously one of the prime examples of it but I'd also read the [John] Sawatsky book, you know, with the relevant chapters. And then a friend of mine, Bill Kaplan ... [we] keep each other updated on what we are doing access-wise and that sort of thing. He gave me this list of requests that had been made under the Act for CSIS on various topics. It was everything they had received since the Act came into effect. And as I read it, I could not believe that no one had asked for this stuff that Sawatsky referred to ... I felt that this stuff had to be there and someone had to tell the story ... So I made a request in 1991 and I made it to Privy Council and to CSIS at the same time because they had related interests and so a basic batch of 200 pages came back and it was all there just as Sawatsky said ... So it just seemed too great a story to ignore. So the article came out of that simple curiosity and that previous interest in that "interplay ..."<sup>26</sup>

John Sawatsky's book is an exposé written by a journalist interested in uncovering the secret activities of the RCMP Security Service around the time that the *Report of the Royal Commission of Inquiry Concerning Certain*

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process. I also rely on an interview conducted by Gary Kinsman with Dean Beeby in July 1995. Together these accounts illustrate how the Act itself emerged as a major actor in our research, not only as the tool we employed to retrieve classified documents, but also as a sometimes impenetrable barrier that hindered our progress. See Heidi McDonnell, "The Experiences of a Researcher in the Maze," in *Whose National Security?*, pp. 229–32. See also the interview by Gary Kinsman with Dean Beeby, 11 July 1995 (transcript in author's possession).

24 Dean Beeby and Bill Kaplan, eds., *Moscow Dispatches: Inside Cold War Russia* (Toronto, 1987). This book tells the story of Canadian diplomat John Watkins who died of a heart attack during an interrogation conducted by the RCMP. His return to Canada from Russia was based on suspicion that he had been compromised by pictures taken by the KGB of Watkins engaging in homosexual sex.

25 Interview by Kinsman with Beeby.

26 Ibid.

*Activities of the Royal Canadian Mounted Police* (McDonald Commission) was released to the public in the early 1980s.<sup>27</sup> Like Beeby, Sawatsky used the Act to reveal the security activities conducted by the RCMP, including its role in the surveillance and interrogation of homosexuals in Canada. While Beeby and Sawatsky obtained documents through the Act, the exemptions and exclusions they encountered meant that some of these documents were severed.

Beeby had to negotiate a dense network of academics, fellow journalists, and archivists in order to shed light on a sad chapter in Canadian history. The crucial work he performed, however, confirms that journalists frequently play a central role in creating entry points for studying the social organization of the national security state. Just as journalists are driven to uncover scandal in their quest for a good headline, historians of sexuality and scholars writing queer history using access legislation become *activists* interested in, and motivated by, the creation of a sustainable and enduring queer archives. It is this activism that led Kinsman, McDonnell, and myself to continue the work initiated by Sawatsky and Beeby.

Even in the early 1990s, the documents we requested continued to construct queers as potential subversives and security risks. Examples of the documents obtained from LAC and departmental ATIP divisions (many of them heavily severed) included the following: minutes and reports created by the Security Panel, an interdepartmental agency with the mandate to advise the government on security matters, and its Sub-Panel; the RCMP's Directorate of Security and Intelligence annual reports from 1961 to 1969, which included lists of departments and the numbers of homosexuals suspected – alleged or confirmed – working in them; Cabinet directives; a manual regarding security procedures and classifications; Carleton University Professor Frank Wake's "Special Report" (a report outlining the various tests and devices that could be used to detect homosexuals); military personnel records; and RCMP surveillance reports of several gay liberation and left organizations from across Canada.<sup>28</sup> Access to documents regarding the homosexual detection machine and the studies conducted on homosexuals, as well as reports authored by other people involved in this project, documents from several gay liberation organizations, and international policies regarding homosexuals among the Allied powers were denied. We also tried unsuccessfully to gain access to photo albums filled with pictures of people in gay bars taken by the RCMP. People we interviewed told us that the RCMP used these albums in

27 See John Sawatsky, *Men in the Shadows: The RCMP Security Service* (Toronto, 1983) and his *For Services Rendered* (Toronto, 1982). On the McDonald Commission report exposing RCMP security practices, see *Report of the Royal Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police*, vols. 1–3 (Ottawa, 1982).

28 ATIP officers at LAC declassified some of these documents; others documents were historical records released to us from government departments.

their interrogation of entrapped gay men. It is likely that we would have been denied access to these albums under the *Privacy Act*; however, we were given no indication as to whether these albums still existed.

As a research team, we started from the premise that the Security Panel probably created most of the historical documents for which we were searching.<sup>29</sup> Indeed, in the period on which we focused, the Security Panel made all the major recommendations to Cabinet regarding surveillance policies, including those that would affect the safekeeping of secret government documents and the criteria for security clearances. Researchers looking for the Security Panel's historical records (including its various reports, memoranda, and minutes of meetings/deliberations) must make an ATIP request to the Privy Council Office where they continued to be held.

McDonnell described our research experience as a “maze” of “scattered and unorganized” documents, marked by a lack of communication between LAC and the various departments involved in our search.<sup>30</sup> Departmental and agency ATIP officers including those from the Privy Council Office, National Defence, External Affairs, and the Solicitor General's Office, interpreted and applied the Act in varying ways, allowing us to acquire classified documents from one government department but not from another. Indeed, in some cases, the same blacked-out documents we received from access requests made at LAC were not blacked out among the documents we received from the Privy Council Office. This curious situation arose because ATIP officers do not have information regarding requests made in other departments. These conditions enabled us to piece together documents retrieved from different sources, although the final result yielded a far from complete picture. While we accessed over four hundred pages of documents, ATIP officers blacked out most of the information. In some cases, we received letters from ATIP officers saying that they could not confirm or deny the existence of the documents we requested, and that if the documents did exist, they would be exempted based on subsections 13(1) and 15(1) of the Act. In this instance, even the *possibility* of a national security threat was sufficient grounds for denying access to information regarding queers.

In retrospect this lack of communication and lack of a standardized interpretation of the Act, and the seemingly “scattered and unorganized” character

29 The Security Panel consisted of deputy ministers from departments such as Immigration and Citizenship, Justice, National Defence, and External Affairs. The RCMP Commissioner and the Clerk of the Privy Council were also members of the Security Panel. For more on the Security Panel, please see Gary Kinsman, “‘Character Weaknesses’ and ‘Fruit Machines’: Towards an Analysis of the Anti-Homosexual Security Campaign in the Canadian Civil Service,” *Labour / Le Travail* 35 (Spring 1995), pp. 133–61, and Kinsman and Gentile, *The Canadian War on Queers*.

30 McDonnell, p. 229.

of the documents we requested worked in the national security state's favour in that important gaps remain in *The Canadian War on Queers*. For instance, we were unable to locate records related to the Special Project (also known as the "fruit machine"), designed by Professor F.R. Wake of Carleton University's psychology department to identify homosexuals.<sup>31</sup> Nor were we able to find documents describing a tripartite agreement that we believe existed between Britain, Canada, and the United States dealing with homosexuals in government employment. Our experience of negotiating a labyrinth gradually translated into an awareness that we would never access a complete picture, even if the Act were not systematically and regularly invoked against us.

As we worked to gather documents for our project, we experienced frustration when interviews confirmed that certain information existed, but cumbersome, lengthy and time-consuming processes often thwarted our efforts. Although the Canadian state recognizes that a democratic society must allow its citizens access to classified or restricted information, that same state carefully ensures that such access is not easily forthcoming. My morale plummeted one day when I received approximately one hundred pages of documentation from the ATIP Division of LAC with only ten pages of print that was not blacked out. As McDonnell concluded, the Act acted as a "double-edged sword: while it has allowed us to obtain documents that have revealed a sad chapter in gay and lesbian history, it was created ultimately to *protect* the very same state institutions that initiated the anti-homosexual national security campaigns."<sup>32</sup> As a "double-edged sword" the Act assumed a critical role in our ability to acquire information heretofore unknown, while ensuring that the bulk of the information we asked for would remain hidden by invoking the various exemptions and exclusions: "The combination of these subsections is clearly meant to protect the government and create impenetrable obstacles for researchers who want to uncover information on security issues."<sup>33</sup> National security interests underscored by particular ideologies of the "subversive" in a liberal capitalist state, combined with searching for queers in the archives, meant that the Act functioned as both an entry and an end point of our research, a situation that both frustrated but also motivated us to conduct our research.

31 The "fruit machine" on display at the National War Museum is not the machine (and battery of tests) outlined in Wake's document called "The Special Project," which we accessed through the Act. For more on Wake, his "Special Project," and the exhibit on display at the Canadian War Museum, see Chapter 5, "The Fruit Machine: Attempting to Detect Queers," in Kinsman and Gentile, *The Canadian War on Queers*.

32 *Ibid.*, p. 232. Italics in the original.

33 *Ibid.*, p. 231.

### **Queering Memories and Archives: The Social Organization of Memory and Forgetting**

Remembering and memory are not simply individual processes but are produced socially and reflexively. The liberal individualist notion of experience or memory as some sort of asocial and ahistorical essence is not how memory and remembering occurs as a social practice. Memory and remembering together take shape through language, and how we make sense of our experiences to ourselves and to one another.<sup>34</sup>

The interviews we conducted followed a reflexive/dialogical process in which both the participant and the interviewer constructed knowledge together. Throughout the research, we gradually accumulated knowledge from those with whom we spoke. We learned more about the social setting and practices of these people's lives, and how the security regime affected them. Each interview led to new questions to be explored and, at the same time, built upon what was learned in earlier interviews.

There are, of course, issues with memory and what we call "the social organization of forgetting," when interviewing people about past experiences that may have had a devastating impact in their lives. Many people lack a historical sense about their own lives since they have been denied access to languages of social and historical literacy. The lack of a historical memory makes it difficult to remember certain aspects of the past and the implication of this past in the present. Particular difficulties arose when we queried people about events that altered their lives irrevocably. Many of the people we interviewed experienced trauma and pain from their experiences with the anti-homosexual purges, including being outed to their family and friends, demoted or fired from their jobs. In some instances, it was not simply a question of forgetting things that happened long ago, but the act of forgetting formed part of a survival strategy to bury or deny the traumatic experiences associated with interrogation and surveillance.

What we accessed in the interviews are not the actual events in some unmediated asocial sense, but rather the accounts of the events as the narrators attempted to construct the past for themselves or others in conversation or in writing. This is how memory forms, is made sense of and remembered. As more and more research is published on the national security campaigns against gay men, lesbians, and others, it becomes increasingly possible for

34 On memory and the social organization of forgetting see Philip Corrigan and Derek Sayer, eds., *The Great Arch: English State Formation as Cultural Revolution* (Oxford, UK, 1985); Kristin Ross, *May '68 and Its Afterlives* (Chicago and London, 2002); Susannah Radstone and Katherine Hodgkin, eds., *Regimes of Memory* (London and New York, 2007) and their companion volume *Contested Pasts: The Politics of Memory* (London and New York, 2007).

memories to be spoken and remembered. In this sense, the production of accounts of those directly affected by the purges, together with our analysis, become part of the historical and social memory of this period and, ultimately, functions as a Cvetkovitch-defined queer archive. Documenting and analyzing these accounts is pivotal to producing social and historical memory. The memories gathered in the book capture the work of security operatives not recorded in official texts as well as record the moments of resistance to these national security campaigns by gays and lesbians. These narratives constitute a form of resistance, as all queer archives are, which make visible social knowledges actively suppressed in national security texts.

### **The Future of Queer Archives? Subversives, “Terrorists,” and the *Anti-Terrorism Act***

For historians of sexuality writing in a post-9/11 context, and the heightened surveillance and security practices that this historical moment engenders mean that finding queers in the archives or queering the archives is all the more difficult and challenging. The *Anti-Terrorism Act (ATA)*, enacted in December 2001, amended several acts and codes including the *Criminal Code*, the *Official Secrets Act*, the *Canada Evidence Act*, the *Proceeds of Crime (Money Laundering) Act*, and other statutes such as the *Access to Information Act* and the *Privacy Act*. It was embraced as an answer to the events of 11 September 2001 and, more importantly, as a gesture to the United States and Canada’s other allies that this country was “doing its part” to strengthen national security.

In a document prepared for the Library of Parliament, Jennifer Wispinski wrote that the *ATA* has “greatly enhanced the government’s capacity to keep certain types of special information related to national security, international relations or national defence out of the hands of the public.”<sup>35</sup> Wispinski compared the key differences between the *USA PATRIOT Act* and Canada’s *Anti-Terrorism Act*, and found that the former gives greater powers to government, security, and police officials to gather information, while the latter gives greater power to government officials to restrict information or prohibit the disclosure of what it calls “sensitive” information.<sup>36</sup> In keeping with this assessment, the *ATA* has indeed strengthened the national security state’s

35 Jennifer Wispinski, *The USA Patriot Act and Canada’s Anti-Terrorism Act: Key Differences in Legislative Approach* (Ottawa, 2006), p. 14.

36 Wispinski cites various sections of the *Patriot Act* to demonstrate her argument regarding the enhancing of powers for gathering information, including sections 203(b), 213, 215, 358, and 505. Section 215 has created some concern for Canada’s Privacy Commissioner, since it would allow US intelligence agencies to obtain the personal information of Canadians working for US companies with offices in Canada.

power over restricting information by introducing amendments to the *ATI* and *Privacy Act*, especially in regards to security certificates.<sup>37</sup> These amendments may not seem consequential to researching queers or left organizations, for example, but in the context of the post-9/11 “war on terror” world, these legislative changes potentially add another layer of challenges to existing exemptions and exclusions.

In the current context of the “war on terror,” the securing, gathering, and restricting of “sensitive” information at whatever cost to civil liberties is a core component of national security ideology. It is no wonder, then, that the national security state can pass sweeping legislation such as the *ATA* by arguing that failure to do so would endanger the defence and security of both the nation and the international community. But the “war on terror” has a major consequence for queers and historians of sexuality. Just as the national security state designated and categorized homosexuals as suffering from “character weaknesses” that consequently made them unreliable, disloyal, and targets of blackmail in the late 1950s and throughout the 1960s, so in the contemporary historical moment, when the “terrorist” is racialized and queered,<sup>38</sup> archival documents and records held at government departments containing references to queers can *potentially* fall under the *ATA*. The ramifications for queer historians, historians of sexuality, and queer scholarship are immeasurable. We may never know the extent of the damage to queer scholarship since that information may be deemed too “sensitive” to admit that it exists.

This dire situation, however, need not be realized; the possibility always exists for resisting the overwhelming restrictions that the *ATA* could have on queer history. Indeed, the perseverance of scholars, archivists, and activists in challenging these types of security legislation and policies can make all the difference. Archivist Brenda Marston offers a similar observation in an article on the influence of archives on the writing and preservation of queer history:

From my involvement in this work, I have been struck by the active interrelation-

37 Further analysis is needed concerning the connections between the *ATA*, the *ATI*, and *Privacy Act* and security certificates. Please see the website of the Department of Justice Canada, [http://canada.justice.gc.ca/eng/antiter/act-loi/persp/persp\\_p6.html](http://canada.justice.gc.ca/eng/antiter/act-loi/persp/persp_p6.html) for a brief explanation of the *ATA* relationship to access to information and privacy legislation (accessed on 23 October 2009).

38 For more on the racializing and queering of terrorists, see Jasbir K. Puar, *Terrorist Assemblages: Homonationalism in Queer Times* (Durham, 2007). See also Jasbir K. Puar and Amit S. Rai, “Monster, Terrorist, Fag: The War on Terrorism and the Production of Docile Patriots,” *Social Text*, vol. 20, no. 3 72 (Fall 2002), pp. 117–48; Iris Young, “The Logic of Masculinist Protection: Reflections on the Current National Security State,” in *Global Challenges: War, Self-Determination and Responsibility for Justice* (London, 2007), pp. 117–39; Susan Hawthorne and Bronwyn Winter, eds., *After Shock, Sept. 11, 2001: Global Feminist Perspectives* (Vancouver, 2003); and Sunera Thobani, *Exalted Subjects: Studies in the Making of Race and Nation in Canada* (Toronto, 2007).

ships among lesbians and gay activists, archivists, and scholars. Each of these groups contributes to creating historical records, to finding materials that should be preserved, to placing them in an archival home, and to interpreting and telling the stories of our lives. Queer history is created by networks of people.<sup>39</sup>

Despite the potential for resistance strategies, the limitations and restrictions encompassed within access to information legislation hinder the important work of acquiring, collecting, and preserving queer records and materials with a direct impact on the writing of queer history.

## Conclusion

The future of queer archives is inextricably tied to changes in national security ideology, and political shifts in discourses regarding the definitions of terrorist and subversive. The exemptions and exclusions included in access to information legislation can be invoked to protect and maintain national security ideology instead of upholding the spirit of such legislation, namely to enable public access to government documents and strengthen democratic values. Sadly, our reliance on the Act hindered our efforts to acquire all of the documents we requested precisely because the legislation – especially sections 13, 15, 21 and 69 – enables the national security state to continue to define the parameters of who is considered subversive or even a terrorist, without recourse. In our experience, the Act acted as an effective technology of power of the national security state instead of a tool to engage and empower citizens.

Suffice it to say that as queer historians and historians of sexuality, our task is to continue practices that have proven successful in the past: acts of non-cooperation and resistance. If we are denied access to some documents, then it is incumbent on us to continue to write the history of sexuality and queer history even if it is truncated or not always empirically complete. This may sound methodologically suspect, but it means writing from a place of strength and survival. Archivist Louise Robbins's insights on the Library of Congress and its participation in the McCarthy anti-queer purges, capture the urgent attention needed to the issues outlined above. "Until we uncover those other sources, the full story will remain veiled by a curtain within a closet within a chamber of circumspection."<sup>40</sup>

39 See Brenda J. Marston, "Archivists, Activists, and Scholars: Creating a Queer History," in *Daring to Find Our Names*, p. 139.

40 Robbins, "A Closet Curtained by Circumspection," p. 61.